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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 LEE DAVIDSON,

11 Petitioner,

12 vs.

13 DWIGHT NEVEN, *et al.*,

14 Respondents.  
15

Case No. 2:14-cv-00432-JAD-PAL

**ORDER**

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17 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. §  
18 2254, by a Nevada state prisoner.

19 Petitioner paid the \$5.00 filing fee for this action. (Doc. 1-1). The Court has reviewed the  
20 habeas petition, and it shall be served on respondents. Respondents shall file a response to the  
21 petition, as set forth at the conclusion of this order.

22 Petitioner has filed a motion to proceed *in forma pauperis*. (Doc. 3). Because petitioner has  
23 already paid the filing fee for this action, his motion to proceed *in forma pauperis* is denied as  
24 moot.

25 Petitioner has filed a motion for the appointment of counsel. (Doc. 2). Pursuant to 18  
26 U.S.C. § 3006(a)(2)(B), the district court has discretion to appoint counsel when it determines that  
27 the “interests of justice” require representation. There is no constitutional right to appointed  
28 counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987);

1 *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally  
2 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023  
3 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984).  
4 However, counsel must be appointed if the complexities of the case are such that denial of counsel  
5 would amount to a denial of due process, and where the petitioner is a person of such limited  
6 education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also*  
7 *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). In this case, the petition on file is well-written  
8 and sufficiently clear in presenting the issues that petitioner wishes to bring. The issues in this case  
9 are not complex. Counsel is not justified in this instance. Petitioner's motion for the appointment  
10 of counsel is denied.

11 **IT IS THEREFORE ORDERED** that petitioner's motion to proceed *in forma pauperis*  
12 (Doc. 3) is **DENIED AS MOOT**.

13 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel  
14 (Doc. 2) is **DENIED**.

15 **IT IS FURTHER ORDERED** that the Clerk **SHALL ELECTRONICALLY SERVE** the  
16 petition (Doc. 1) upon the respondents.

17 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry  
18 of this order within which to answer, or otherwise respond to, the petition. In their answer or other  
19 response, respondents shall address all claims presented in the petition. Respondents shall raise all  
20 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and  
21 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,  
22 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in  
23 the United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have  
24 **forty-five (45) days** from the date of service of the answer to file a reply.

25 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents  
26 shall be filed with a separate index of exhibits identifying the exhibits by number or letter. The  
27 hard copy of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in  
28 the **Reno** Division of the Clerk of Court.

